IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 24TH JULY 2007 / 2ND SRAVANA 1929

Bail Appl..No. 4450 of 2007()

CRIME NO.4/06 OF BADIADKA EXCISE RANGE.

PETITIONER/ACCUSED

DEVAKI, AGED 41 YEARS, W/O.LATE AITHAPPA
R/AT BENDRAKUDLU UBRMNGALA VILLAGE,
KASARAGOD TALUK, KASARAGOD DISTRICT.

BY ADV. SRI.M.SASINDRAN
SRI.K.P.HARISH

RESPONDENTS: COMPLAINANT & STATE

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1. STATE - REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.

2. THE RANGE OFFICER,
BADIADKA EXCISE RANGE,
(C.R.NO.4 OF 2006)
KASARAGOD DISTRICT.

BY P.P. SRI. S.U. NAZAR.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 24/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. NO. 4450 OF 2007

Dated this the 24th day of July, 2007

ORDER

Application for anticipatory bail. The petitioner – a woman, faces allegations under the Kerala Abkari Act. She is alleged to have kept in her possession 50 x 100 ml. of Karnataka arrack in Palakkad. Since the detecting party did not consist of any female official, the petitioner could not be arrested. Investigation is complete. Final report has already been filed. Committal proceedings has been registered. The petitioner has not appeared before the learned Magistrate. Consequently, she finds coercive processes issued by the learned Magistrate chasing her.

2. According to the petitioner, she is absolutely innocent. Her absence earlier was not wilful. The petitioner is willing to co-operate with the court for the early disposal of the case.

She is willing to surrender before the learned Magistrate. The petitioner apprehends that her application for regular bail may not be considered by the learned Magistrate on merits in accordance with law and expeditiously. It is, in these circumstances, that the petitioner has come to this Court for a direction to the learned Magistrate to release her on bail when she appears before the learned Magistrate.

2. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which she could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider the petitioner's application for regular bail on merits in accordance with law and expeditiously. No special or specific directions appear to be necessary. Every court must do the same. Sufficient general directions on this aspect have already been issued in the decisions reported in **Sukumari v. State of Kerala** (2001 (1) KLT 22) and **Alice George v. Deputy Superintendent of Police** (2003 (1) KLT 339).

3. In the result, this Crl.M.C. is dismissed; but with the observation that if the petitioner surrenders before the learned Magistrate and seeks bail, after giving sufficient prior notice to

the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously – on the date of surrender itself.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge